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In re Application of
Larry Morrow
Application No. 10/006,595
Filed: December 5, 2001
Attorney Docket No.: 107793.00001

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition filed February 15, 2002, requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed January 8, 2002 be withdrawn.

The application was filed on December 5, 2001. However, on January 8, 2002, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of December 5, 2001 but page 23 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 23 was filed on December 5, 2001. In support, the petition is accompanied by a copy of applicant's return postcard which lists 28 pages of specification. The petition is further accompanied by a copy of page 23 of the specification.

Applicant's postcard receipt is prima facie evidence that 28 pages of specifications were received on December 5, 2001, but page 23 of the specification is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 23 of specification was received on December 5, 2001, as shown in counsel's file, and later misplaced in the office.

The petition is Granted. The \$130.00 petition fee will be credited to Deposit Account No. 50-1752.

Since the original page 23 of the specification cannot be located in the Office, page 23 of the specification supplied on February 15, 2002, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2001, using the substitute page 23 of the specification supplied on February 15, 2002.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.

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